

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB-ACE

RIO CHAMA STREAM SYSTEM
Section 7: Rito de Tierra Amarilla

Subfile Nos. CHTA-001-0001
CHTA-001-0002
CHTA-001-0003
CHTA-002-0001
CHTA-002-0002
CHTA-002-0003
CHTA-003-0001

SCHEDULING ORDER

This Order is entered pursuant to Fed.R.Civ.P. 16(b) following a status conference on December 12, 2005, in Tierra Amarilla, New Mexico, in connection with the water rights claims in the following subfiles in Section 7 of the Rio Chama Stream:

1. CHTA-001-0001 John M. Sena
9709 Rio Grande NW
Albuquerque, NM 87114

Frank C. Sena
59 County Rd. #84
Santa Fe, NM 87506
2. CHTA-001-0002 Agripina G. Salazar
Victor Salazar, Sr.
P.O. Box 324
Tierra Amarilla, NM 87575

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| 3. | CHTA-001-0003 | Garcia Lazy J. Ranch, Inc.
c/o Sam Garcia
1200 Calle Sombra
Española, NM 87532 |
| | | Garcia Lazy J. Ranch, Inc.
c/o Adan Garcia
P.O. Box 1284
Española, NM 87532 |
| 4. | CHTA-002-0001 | Ellis Gordan Schlegel
P.O. Box 309
Tierra Amarilla, NM 87575 |
| 5. | CHTA-002-0002 | Acencion Labrier
HC 75 Box 24
Tierra Amarilla, NM 87575 |
| 6. | CHTA-002-0003
CHTA-003-0001 | Estate of Carlota L. Martinez
c/o Frank A. Martinez
346 Forest Road 314
Jemez Springs, NM 87025 |

I. REPRESENTATION

A. The State The State of New Mexico, *ex rel.* State Engineer (“State”) is represented in these limited subfile proceedings by Special Assistant Attorney General Edward G. Newville, Office of the State Engineer, P.O. Box 25102, Santa Fe, NM 87504-5102; telephone no. (505) 867-7444.

B. Defendants The Defendants in the above referenced subfiles have, so far, appeared *pro se*. With the exception of the Garcia Lazy J. Ranch, Inc., and the Estate of Carlota L. Martinez, they may continue to appear *pro se*. Those who choose to retain an attorney shall inform Mr. Newville as soon as possible of this fact, and such counsel shall immediately enter his or her appearance in the record.

C. Garcia Lazy J. Ranch, Inc. Federal law requires that corporations be represented by an attorney. Mr. Sam Garcia and Mr. Adan Garcia, therefore, shall retain an attorney no later than the date initial disclosures are due to be served (see below.)

D. Estate of Carlota L. Martinez Mr. Frank A. Martinez shall, as soon as possible, arrange for a court-appointed representative of the estate to appear on behalf of the estate.

II. STATEMENT OF ISSUES

No later than **February 28, 2006**, Mr. Newville shall file and serve on the Defendants a brief summary of the State's position on the issues relevant to the disputed subfiles listed above.

III. DISCOVERY

A. Formal discovery begins immediately. The State and the Defendants shall adhere to the Fed R. Civ. P. 26 requirements of liberal, continuing and voluntary disclosure. **The failure to comply with these and any other pretrial provisions may result in a default judgment which incorporates the State's recommended disposition for these water right claims.**

B. No later than **APRIL 10, 2006**, the State and each of the above-named the Defendants shall make the following initial disclosures to the opposing party:

(1) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses;

(2) a copy of, or description by category and location of, all documents, data compilations and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses.

The disclosures shall not be filed with the Court.

C. Each of the Defendants shall inform the State in writing no later than **APRIL 10, 2006**, whether he or she intends to employ the services of a professional historian, or other professional consultant or expert, in connection with the Defendant's water use claims. Defendants shall provide the name and address of any such person to the State's attorney as soon as the consultant or expert is retained. Any relevant information and documents in the possession of the State's historian, Dr. John O. Baxter, shall be made available to any any consultant or expert employed by the Defendants upon request. If no consultant or expert is retained, the relevant information and documents shall be made available to any Defendant upon request.

D. Beginning in March, 2006, the State shall take the depositions of persons in the community likely to have information relevant to the historic water use questions in the above subfiles in order to preserve the testimony of these persons; and the State shall consult with the Defendants and representatives of the Tierra Amarilla Community Ditch in order to identify these individuals.

IV. FUTURE SCHEDULING AND STATUS CONFERENCES

The next general status conferences for Sections 3, 5 and 7 are scheduled as follows:

February 14, 2006, in Tierra Amarilla, or Chama, NM. The above-listed Defendants shall be notified of the time and place of this conference in the event they wish to appear and discuss any matter relevant to these proceedings.

May 8, 2006, in Santa Fe, NM. The above-listed Defendants shall be notified of the time and place of this conference in the event they wish to appear and discuss any relevant matter.

August 8, 2006, in Tierra Amarilla, or Chama, NM. A pretrial conference in this matter will be scheduled immediately following the general status conference, and attendance by Defendants, and/or their attorneys, is mandatory.

IT IS SO ORDERED.

/electronic signature/
VICKIE L. GABIN, SPECIAL MASTER